

INVESTIGATION OF ALLEGATIONS
OF PARTICIPATION BY LEGAL
SERVICE SYSTEMS IN THE NEWARK
AND PLAINFIELD RIOTS.

The Committee on Law and Poverty of the New Jersey Bar Association submits this report at the direction of the Trustees of the Association, to determine whether there was participation by Legal Service Systems or their personnel in the recent riots at Newark and Plainfield. The Committee was specifically instructed to ascertain if any such participation included the counselling, advising, aiding or abetting of any persons in the conduct or instigation of the riots.

The investigation could not, of course, be conducted through hearings or by the examination of witnesses under subpoena. Nevertheless, the Committee has assembled or sought reports and information from all persons who might have pertinent information, including the police of the involved areas. It has, therefore, been possible to conduct the investigation quietly and without any of the publicity which often distracts from the probative value of open, emotional hearings.

The Committee has sought to investigate all leads which might disclose any improper participation in the riots by Legal Service Systems, or by lawyers attached thereto, because the Committee deems it to be self-evident that the advocacy of any unlawful act is contrary to every tradition of the legal profession and inimical to the fundamental objectives of all Legal

Service Systems to advise and assist those who cannot otherwise secure legal services in order to help them escape from their condition of helplessness and hopelessness and to achieve a self-reliant status in a well-ordered society. The Committee consequently considers itself to be under an obligation to uncover any such improper activities and to recommend steps for immediate correction, if any such improprieties did in fact occur.

The Committee has been able to determine conclusively that there was no participation by any member of a Legal Service Agency in advising or encouraging any of the riotous activities which took place in Plainfield. Milford S. Payne, Chief of Police of the Plainfield Police Department, has specifically advised the Committee that to his knowledge "there was no such Legal Service involved, or any encouragement of riotous conduct".

Furthermore, it appears that the Union County Legal Service Project, organized under the Economic Opportunity Act, was not funded until June 30, 1967, and did not employ the services of a Director until early September, 1967. There were no Legal Services personnel of this project in existence at the time of the Plainfield occurrence. Consequently, it is obvious that no such personnel could possibly have participated in encouraging the Plainfield riot. The Committee has discovered no evidence that any other Union County Legal Service System or any Legal Service System of any other area, advised or encouraged any unlawful or inappropriate activities in Plainfield. Mr. Calvin J. Hurd, Esq., a member of this Committee, of Elizabeth, has advised the Committee that at the request of families of some of the persons

arrested in connection with the Plainfield homicide of police officer Gleason, attempts were made by personnel of the Community Action Agency to obtain counsel for the defendants and to notify the office of the Public Defender,

The charges that Anti-Poverty Programs and officials encouraged or participated in the riots appear to be limited to allegations respecting the disturbances in Newark. This Committee requested all pertinent information concerning such charges from the Newark Police Department, but, unfortunately, no reply to that inquiry has been received. In particular the Committee solicited the specific facts and data which might substantiate any charge of improper participation by personnel of Legal Service Systems operating in the Newark area. The Committee has been unable to uncover any proof whatsoever that any Legal Service System, or the personnel of any Legal Service System, participated in any manner in aiding, encouraging or advising participants in the riot to engage in any unlawful or inappropriate activities. Although the Committee has no primary concern with possible charges that Anti-Poverty Agencies other than Legal Service Systems may have advised or abetted rioters, we have not received information which might substantiate such a charge. Of course, our inquiry in this direction has been limited.

The charges that Legal Service personnel advised or counselled participants in the riots appears to stem from the following allegations, which have been reported by news media or have been the subject of discussion or rumor;

1. That several months prior to the outbreak of the riots, on April 12, 1967, attorneys representing the Newark Legal Services Project advised persons objecting to the pricing policies of the Clinton Hill Meat Market to picket to protest alleged price gouging and that certain attorneys of the Newark Legal Services Project participated in such picketing.

2. That following the arrest of such picketers certain attorneys of the Newark Legal Services Project engaged in picketing in front of the jail to which the picketers had been taken.

3. That the Newark Legal Services Project utilized funds granted to it by the Federal Government to provide bail for rioters arrested in the course of the riot.

4. That circulars were distributed requesting negroes to preserve evidence of police destruction.

5. That the riot resulted from a "conspiracy" and that the Newark Legal Services Project was guilty of "adding fuel to the flames that were ignited by the conspirators", including "asking that complaints be made against police officers". This charge was ascribed by the press to a representative of the Newark Police Benevolent Association.

6. That personnel of an Anti-Poverty Agency, including a Legal Services Agency, advised and counselled participants in the riot and encouraged such participants to engage in violent activities.

It appears that on April 1, 1967, attorneys attached to the Newark Legal Services Project received a request to assist picketers who had been

arrested at the Clinton Hill Meat Market where they had assembled to protest alleged price gouging. Mr. Sidney Feitman, Esq., a private attorney and General Counsel of the United Community Corporation, was advised of these circumstances and the release of the picketers in his custody was obtained late the same day.

Apparently, the picketers determined thereafter to continue peaceful picketing and advised counsel of the Newark Legal Services Project of their intention to conduct such picketing and of their apprehension that they might be arrested. They requested that counsel be held on call to assist them in the event of such further arrests. Accordingly, three attorneys of the Newark Legal Services Project appeared in the vicinity of the Clinton Hill Meat Market on Sunday, April 2nd, to observe the situation. They did not, however, participate in any other way, either to advise the picketers or to participate in their activities. No further arrests were made by the police on that date.

A suit is now pending in the United States District Court for the District of New Jersey in the matter of Robert Curvin, et als, against Dominick Spina, individually, and as Police Commissioner of the City of Newark, et als, Docket No. 396-67, to test the constitutionality of the ordinance under which the picketers were arrested, requiring persons ordered to move on by the police to do so and authorizing the arrest of those refusing to obey such an order. The attorneys of record in this case include attorneys on the staff

of the Newark Legal Services Project as well as other attorneys.

Insofar as the Committee has been able to obtain information concerning these incidents, there appears to be no basis for any charge that Legal Services personnel advised the picketers to initiate picketing activities or aided or abetted them in any way or participated in any picketing either at the Clinton Hill Meat Market or at the Police Station. This Committee is entirely satisfied that it was the obligation of the Newark Legal Services Project to provide legal advice for the picketers following their arrest and to prosecute any litigation which may be required to test the validity of the ordinance in question. Indeed, it is the objective of the Economic Opportunity Act to provide legal counsel for the disadvantaged to assist in any lawful way to eliminate price gouging or other over-reaching tactics in the private or public sector which might affect the rights of the poor.

The Committee is informed that no federal funds and no private funds contributed to the Newark Legal Services Project were used or authorized to be used to provide bail for persons arrested during the riots but that private contributors, desirous of alleviating hardship situations which resulted from the arrest of large numbers of participants in the riots, established a special trust fund for that purpose. The use of the fund was administered by an assistant dean of Rutgers' Law School under arrangements worked out with the court. For convenience the specially contributed funds were deposited in an NLSP bank account for NLSP but were treated

separately from the Project's own funds. We have been unable to uncover any evidence substantiating the charge that funds originating from the Federal Government were used to provide bail.

It appears that literature requesting reports of the destruction of property by the police was circulated by the American Civil Liberties Union. Since this group is a private agency, its activities are beyond the scope of this investigation. There is no evidence that such circulars were put out by any O. E. O. or Bar Sponsored Legal Service System. Nevertheless, no impropriety in the solicitation of this information suggests itself to the Committee.

So far as the Committee has been able to determine, the first participation of any representative of a Legal Service System in the Newark disorders occurred on July 12, 1967, when Mr. Oliver Lofton, Esq., Administrator of the Newark Legal Services Project, was informed of difficulties which were then occurring at the Fourth Precinct of the Newark Police Department. Mr. Lofton and other representatives of the United Community Corporation thereupon went to the Fourth Precinct and found approximately 150 people milling outside, where some were preventing the police from transporting a Mr. John Smith, a Newark cab-driver, to the Newark City Hospital for treatment of injuries sustained during the course of his arrest by the police. The crowd apparently was expressing apprehension that Mr. Smith would never reach the hospital because of an allegation that he had previously been beaten by the police and might suffer subsequent injury. Mr. Lofton's

participation in the incident at this point was limited to calming the apprehensions of all concerned and assuring the assemblage that the Newark Legal Service Project would make all fourteen of its lawyers available to represent the cab-driver to assure his proper legal protection.

After the rioting had commenced the Newark Legal Services Project began to receive a flood of inquiries from the families of people who had been arrested during the disturbances, seeking assistance in trying to locate relatives or to provide legal representation for them. The entire resources of the Newark Legal Services Project and of the Public Defender of the State of New Jersey and Mr. Howard H. Kestin, Director, Legal Services of the Office of Economic Opportunity, were thereafter marshalled to provide legal services for those persons who had been arrested in the course of the riots. All of the O. E. O. Legal Service Projects in the northern half of the State, except one, volunteered their complete resources to the Newark Legal Services Project and the Public Defender in aid of their functions in this most emergent situation. These services consisted in appearances at arraignments, obtainment of bail reductions for prisoners, organization of a Release on Recognizance Program, arrangements for interviewing persons under arrest relative to their requirements and release and processing of complaints from citizens in the riot area. These complaints began to be received at the Administrative Offices of the Legal Services Project in great volume and dealt primarily with reports of alleged unprovoked violence against the persons and property of negroes by police officers.

It seems quite clear that in every instance the personnel of the Legal Service Projects sought to caution these excited people not to resort to self-help, but rather to utilize the assistance of the Legal Service Agency in recording statements, so that Legal processes could be utilized to help the complainants and to vindicate any rights to which they ought to be entitled.

There is, of course, no doubt that the situation during the height of these disturbances was extremely tense and that all participants in the incidents, on both sides, were apprehensive and excited. Without expressing any comment concerning the merits of the complaints which were made to the Legal Service offices, the Committee is aware that these complaints fell generally into four categories:

1. Gross personal abuse.
2. Physical violence.
3. Unprovoked and indiscriminate firing of weapons at people and apartments.
4. Deliberate destruction of the business property of negroes.

The Newark Legal Services Project has adopted the official position that all of its resources should be made available to people complaining of such conduct so that all citizens will receive protection from unlawful conduct, whether by law enforcement personnel or others. We are advised that the Newark Legal Services Project has referred some of the complaints which it received to the prosecuting authorities, has advised some individuals that they may have civil causes of action, joined in a proceeding in the Federal

Court seeking equitable relief, and assembled its data for study by the President's Commission and the Governor's Commission. The attorneys actually handling these cases must determine as a matter of professional judgment what remedies to pursue, and it is not within the scope of this Committee's responsibility to make any judgment as to the particular remedies selected. This Committee fully concurs, however, in the policy decision by the Newark Legal Services Project that it has a duty to seek effective remedies for complaints of this nature where it properly is required to represent clients seeking assistance. A project committed to law and order could adopt no other course.

We are informed that to the present date the officers of the Newark Legal Services Project have received, reviewed and analyzed 274 statements and affidavits dealing with such charges. Even if all of them were without merit, it was necessary that they be received and processed.

We have been unable to substantiate any of the allegations of unlawful or inappropriate action by the Newark Legal Service Project, including the charge that it solicited complaints against police officers. Although some police officials may have believed that reception by NLSP of complaints against the police constituted advocacy that such complaints be made, the circumstances which our investigation revealed do not in any sense justify the charges. It was the obligation of NLSP to receive and process these complaints just as it was the duty of the police to preserve law and order.

The records do disclose certain criticisms of the Police and City

officials by O. E. O. Agencies, and officials of Legal Service Projects, including the charge that some of these officials did not fully recognize the implications of the events which triggered the disturbances and do not fully understand appropriate steps which must be undertaken to prevent recurrences. The Committee is not concerned with the merits of such criticism but does appreciate that any agency entrusted with the responsibility of providing legal services for the disadvantaged, must concern itself with ultimate issues as well as with the mere technical problem of representation of accused persons.

A telegram from Sargent Shriver, Director of O. E. O., to all Regional Directors, dated July 20, 1967, states: "Lest there be any misunderstanding about what O. E. O. policy has been and continues to be, let me make it unmistakably clear once again. There will be absolute insistence that every O. E. O. employee and employee of an O. E. O. grantee scrupulously avoid and resist participation by O. E. O. funded resources in any activities which threaten public order in any community. I shall insist upon immediate and full penalties for any individuals found guilty of wrong behavior in this connection. Furthermore, I shall insist upon the withholding of O. E. O. funds from any grantee or delegate agency which is shown to be encouraging or tolerating such behavior".

This Committee believes that the New Jersey State Bar Association takes the same position with regard to Legal Service Agencies in which the organized Bar participates.

CONCLUSIONS

1. We can find no credible evidence that any Legal Service System, or any lawyer or other employee of such a system, advised, counselled, aided or abetted in the conduct or instigation of the riots.

2. On the contrary, all of the evidence seems to establish beyond any reason for doubt that these agencies and individuals did everything within their power to discourage and avoid violence and to convince those who participated in the riots that their best protection lay in reliance on legal process.

3. This report is not intended to criticize the activities of any law enforcement agencies, who obviously were confronted with a major crisis, or to condone the conduct of those who participated in the riot.

4. The legal profession, including the Public Defender, the Director of Legal Services of the O.E.O. for New Jersey, the Officers and Staff of the Newark Legal Services Project, and all of the other Legal Service Systems and private attorneys who volunteered their assistance in the emergency, worked tirelessly to provide legal services for all who needed and qualified for help. This duty imposed a tremendous burden upon the Bar, which was faithfully and creditably discharged in the best tradition of the legal profession.

Respectfully submitted,

COMMITTEE ON LAW AND POVERTY
OF THE NEW JERSEY BAR ASSOCIATION

By: _____

Emanuel A. Honig, Chairman

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